

REMARKS

The present amendment is responsive to the Office Action dated December 6, 2005. Claims 1, 3, 9, 11, 20 and 24 have been amended. No new matter has been introduced by these amendments. Claims 1-28 are again presented for the Examiner's consideration in view of the following comments. A petition for a one-month extension of time is respectfully submitted herewith.

Claims 1, 9, 20 and 24 were objected to because of typographical errors. Claims 1-13 were also rejected under 35 U.S.C. § 112, second paragraph as being indefinite due to antecedent basis questions in claims 1, 3, 9 and 11. The claims have been amended to correct the typographical errors and antecedent basis questions. Therefore, applicant respectfully requests that the objections and § 112 rejections be withdrawn.

Claims 1-28 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,049,878 to Caronni et al. ("the '878 patent") in view of U.S. Patent No. 6,609,116 to Lotspiech ("the '116 patent"). Applicant respectfully traverses the rejection.

Applicant submits that a *prima facie* case of obviousness with regard to independent claims 1, 9, 14, 15, 23 and 28 has not been met and the rejection should be withdrawn for at least the following reasons: (1) the references, either alone or in combination, do not teach or suggest every element of the claimed invention; (2) there is no motivation to modify the '878 patent or to combine it with the teachings of the '116 patent to arrive at the claimed invention; and (3) there is no reasonable expectation of success.

As to the first reason, the Office Action admits that the '878 patent does not teach or suggest each and every limitation of the independent claims.

With regard to independent claims 1, 9, and 14, the Office Action states that the '878 patent "does not teach wherein 'said data processing apparatus further comprises ... thereby said key distribution approval data files are stored in said memory device.'" (Office Action, numbered paragraph 7, pgs. 3-4, emphasis in original.)

Similarly, with regard to independent claims 15, 23 and 28, the Office Action states that the '878 patent "does not disclose 'wherein, the memory device stores a key distribution approval data file comprising header data, which comprises a link count key for designating a number of contents data that should be enciphered by the enciphering data acquirable from the enabling key block distribution authenticating key.'" (Office Action, numbered paragraph 7, pgs. 4-5, emphasis in original.)

The Office Action relies on the '116 patent in order to overcome the deficiencies of the '878 patent. However, this reliance is misplaced. The '116 patent relates to "encryption of recordable media to minimize unauthorized recording of content onto blank media." (Col. 1, ll. 15-17.) "It is the purpose of the present invention to enable legitimate user player/recorders 14 to copy content that is received from either a receiver or from a disk onto a blank medium 16, while updating encryption data on the medium 16. The blank medium 16 includes a media key block 18, described more fully below, which is written to the blank medium 16 by a blank media source 20, e.g., a vendor of blank CDs or DVDs." (Col. 3, ll. 40-47.)

The Office Action contends that the aforementioned elements admitted to be missing from the '878 patent are found in the '116 patent at column 4, lines 16-20. What the cited portion of the '116 patent states is:

In addition to the above components, the system 10 includes a media key generator 28 that communicates with the encryption module 22 during manufacture of the player/recorder 14 to send to the player/recorder 14 a set of device keys in accordance with disclosure below.

There is simply no teaching or suggestion in the cited portion of the reference '116 patent, of the aforementioned elements admitted to be missing from the '878 patent, including header data and a link count key of the header data, or link-count data that is present among the key distribution approval data files. Thus, the '116 patent fails to overcome the deficiencies of the '878 patent.

As to the second reason, there is simply no motivation to modify the '878 patent or to combine it with the teachings of the '116 patent to arrive at the claimed invention. According to the Office Action, "it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the methods of *Caronni et al.* and *Lotspiech* as they both use features of secure data communication within the same field of endeavor (securely communicating content data) and with the same problem sought to be solved (reducing the load incurred from distribution of communication content)." (Office Action, numbered paragraph 7, pg. 4; see also numbered paragraph 7 at pg. 5.)

While both the '878 and '116 patents deal generally with broadcast or multicast data encryption, it does not appear that either reference addresses the problem suggested by the Office Action. The Office Action does not refer to any portion of either reference which either explicitly or implicitly hints at this problem. Applicant submits that neither reference addresses the problem suggested in the Office Action and that there is simply no suggestion or motivation to combine the two references.

There is also no teaching or motivation in the '116 patent to reengineer the '878 patent in order to arrive at the inventions of the currently pending independent claims. In addition, nothing in the Office Action ties any purported motivation to the features of the '878 patent that must be modified in order to meet the claim limitations.

Furthermore, even if the '878 and '116 references could be combined, which applicant does not believe is the case, the combination would not result in the claimed invention because, as explained above, the '116 patent does not overcome the deficiencies of the '878 patent.

As to the third reason, because neither reference teaches the aforementioned limitations, and because neither reference addresses the problems solved by the claimed invention, there is no reasonable expectation of success that combining the two references would result in the claimed invention.

Thus, for at least the aforementioned reasons, applicant respectfully submits that independent claims 1, 9, 14, 15, 23 and 28 are in condition for allowance.

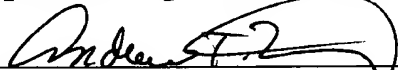
Claims 2-8, 10-13, 16-22 and 24-27 depend from the independent claims and contain all of the limitations thereof as well as other limitations that are neither disclosed nor suggested by the prior art of record. Accordingly, applicant submits that the dependent claims are likewise patentable.

As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have. If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 3, 2006

Respectfully submitted,

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